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ABSTRACT

On October 29, 1979, the House Subcommittee on Elementary, Secondary, and Vocational Education held oversight hearings regarding the new Office of Indian Education Form No. 506, used to determine school district eligibility for part A public school programs under the Indian Education Act. The fact finding hearing was prompted by mail to the committee indicating that the status of many children previously qualifying for the programs would be altered. Witness Gerlad D. Gipp, Office of Indian Education, outlined the history of the new form which was redesigned in direct response to Congressional mandates and explained the differences in the old and new versions of Form 506, to be completed by parents or legal guardians of Indian children. He noted that the form will be used to determine program eligibility and to supply information regarding the definition of Indian. He also clarified eligibility requirements in detail and noted existing eligibility abuses. (SB)

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OVERSIGHT HEARING ON THE ADMINISTRATION OF THE INDIAN EDUCATION ACT OF 1972

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HEARING

BEFORE THE

SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR

HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

FIRST SESSION

HEARING HELD IN WASHINGTON, D.C., ON
OCTOBER 29, 1979

Printed for the use of the Committee on Education and Labor

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NATIONAL INSTITUTE OF EDUCATION

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OVERSIGHT HEARING ON THE ADMINISTRATION OF THE INDIAN EDUCATION ACT OF 1972

MONDAY, OCTOBER 29, 1979

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ELEMENTARY, SECONDARY,
AND VOCATIONAL EDUCATION,
COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 2261, Rayburn House Office Building, Hon. Dale E. Kildee presiding.

Members present: Representatives Kildee and Erdahl.

Staff present: Alan Lovesee, majority counsel; Richard DiEugenio, minority legislative assistant; Jeff McFarland, research assistant; and Scherri Tucker, assistant clerk.

Mr. KILDEE. The hearing will come to order. The Subcommittee on Elementary, Secondary, and Vocational Education is conducting this oversight hearing on the new form to be used by the Office of Indian Education to determine eligibility for the part A public school programs under the Indian Education Act.

These forms, called OE-506 forms, have been circulated to all of the participating schools. The other committee members and I have received a substantial amount of mail from urban and nonrecognized Indian parents, educators, and organizations expressing concern that the new form substantially alters the ability of their children to qualify for the program.

The committee feels that these concerns warrant OIE clarification for several reasons: First, the volume of mail we are receiving; second, the fact that the concerns have been voiced by the constituent groups who would logically be affected if there are restrictions in the eligibility definition; third, the confusion and unresolved questions which the form has raised in the minds of committee members. Therefore, the committee has asked Dr. Gerald Gipp, the Deputy Commissioner of the Office of Indian Education, to appear today and give us a definitive explanation of the new OE Form No. 506. The purpose of these hearings is to offer the public an explanation and to answer field concerns and aid the committee to consider any actions on this matter.

I want to be clear this is a fact finding hearing. The scope of the problem, if one exists, presented by this form has not been determined. Policy determinations behind the decision need clarification. Additionally, what procedures OIE will follow in the case of good-faith compliance efforts need to be spelled out for us. I under-

stand the committee staff has relayed some of our concerns, so it is my hope these questions will be answered today.

Now, I will ask Dr. Gipp to introduce those who are with him, and begin by making any statement which he may have prepared.

We have been joined by a minority Member, Mr. Erdahl.

STATEMENT OF GERALD E. GIPP, DEPUTY COMMISSIONER, OFFICE OF INDIAN EDUCATION, ACCOMPANIED BY JOHN TIPPECONNIC, ASSOCIATE DEPUTY, AND PAUL RIDDLE, OFFICE OF GENERAL COUNSEL

Dr. GIPP. Thank you, Mr. Chairman.

With me today is, to my immediate right, Dr. John Tippeconnic, my Associate Deputy, and, to my far right is Mr. Paul Riddle, from the Office of the General Counsel.

Mr. Chairman, I am pleased to be here today to discuss the eligibility form used for the part A entitlement program under the Indian Education Act.

Part A authorizes grants to public school districts. The amount of each grant is determined by a formula that takes into account the number of Indian children enrolled in the school district and the average per pupil expenditure in that school district's State.

In 1979, grants totaling $44 million were made to 1,148 school districts serving almost 338,000 students.

In determining the amount of each grant, the Office of Indian Education relies on an annual count of Indian students provided by each school district. The districts determine their counts based on eligibility forms—known from their Office of Education number as 506 forms—that are completed and signed by parents of Indian students.

On that form, which has the definition of Indian at the top, parents or legal guardians are asked to give: (1) Their name and address; (2) the child's name; (3) the name of the child's school; and (4) the tribal affiliation of the child, the parents, and the grandparents.

Prior to the development of this first 506 form in 1976, there was no consistent method of determining the Indian enrollment among the Nation's school districts. Methods ranged from asking students to identify themselves as Indians by raising their hands to counting only quarter-blood members of federally recognized tribes. As a result, some districts had greatly inflated counts, while others were shortchanging themselves.

The introduction of the first 506 form was a definite improvement. However, it has become increasingly apparent that abuses are still taking place. Some school districts are using the 506 form only for new students. Others are instructing parents to claim eligibility even though their children clearly don't meet the definition of Indian. In some cases, school districts have reported dramatic jumps in their Indian enrollment.

In 1977, the GAO criticized both the definition of Indian and the methods used by the school districts to identify Indian students. It recommended that the Office of Indian Education establish adequate guidelines and procedures for the schools to use in determining and documenting the number of Indian children to be counted. The GAO also had a recommendation for the Congress—that it

provide the Office of Indian Education with a clearer definition of Indian.

In 1978, the Indian Education Act came up for reauthorization and student eligibility was a major area of concern.

This committee, in its report accompanying H.R. 15, stated the problem as follows:

> At present, the definition of Indian is so broad that the Committee has seen abuse in the counting of children who are eligible to participate under the program and the inability of program people in the Office of Education to effectively monitor the participation in this program or evaluate its results.

To alleviate this problem, the committee recommended that the definition of Indian be tightened "by deleting the provision which qualified a child as Indian because he is a descendant in the second degree of a member of a recognized tribe." The committee pointed out that this deletion would be consistent with the recommendation of the National Advisory Council on Indian Education.

The full House and subsequently the conference committee declined to change the definition and instead mandated that the Assistant Secretary for Education conduct a study of the definition of Indian.

On the subject of student eligibility, the Congress amended the Indian Education Act and required specific questions be asked about each child, and his family. Another amendment requires the Office of Indian Education to audit, on an annual basis, a sample of not less than one-third of the part A projects. One of the key objectives of these audits, according to the conference committee, is to verify that students served are bona fide recipients.

After passage of the Education Amendments of 1978, the Office of Indian Education began redesigning the 506 form in order to incorporate the requests for information mandated by the amended statute.

The redesigned forms will serve two purposes: First, to establish the eligibility of Indian children to be counted by public school districts for the part A entitlement grants; and second, a one-time purpose of supplying information to the Assistant Secretary's office for use in the study of the definition of Indian. We have postponed the implementation as far as determining eligibility until the 1981 grant cycle to allow school districts until 1981—more than a year—to secure complete forms.

In developing the new 506 form, we have consulted with the following groups:

The Office of the Assistant Secretary for Education—for coordination with the definition study;

The National Advisory Council on Indian Education;

Indian leaders from the States of Oklahoma, California, and Alaska;

Representatives from several Indian organizations;

The Committee on Evaluation and Information Systems of the Council of Chief State School Officers;

The National Center for Educational Statistics;

The Federal Education Data Acquisition Council, which issued approval of the new form in August 1979.

The Departmental Fair Information Practices staff.

I feel that it is important for me to make a few final points.

First: The new 506 form was developed by the Office of Indian Education as a direct response to the mandates of the Congress through Public Law 95-561.

Second: Regardless of these mandates, it is incumbent on the administrators of the Office of Indian Education to guard against abuses and to fulfill the original intent of the Indian Education Act—that is, to help meet the special educational needs of Indian children.

Because of the growing concerns expressed by the Indian communities, our advisory council, Members of the Congress, the GAO, and our own staff, the need for tightening the procedures for monitoring part A projects has become painfully apparent. The Office of Indian Education, therefore, even in the absence of these mandates, would have instituted similar procedures. To do so, we believe, is not only within our administrative authority, but is also demanded by our obligation to preserve the integrity of our program.

Finally, I would like especially to stress that in no way has our intent been to eliminate any eligible students from being served under the Indian Education Act. The definition, after all, is unchanged, and the new 506 form does nothing to alter it. Rather, the form removes from the school districts and the parents the burden of deciding eligibility based on their own interpretation of what many have called an unclear definition.

As a Federal administrator, and as an Indian, I have both a legal and a moral obligation to see that all eligible Indians are served. If this means reducing the number of dollars that are siphoned off by persons who do not meet the definition of Indian in our law, I will not have betrayed that obligation.

Thank you.

[The prepared statement of Gerald Gipp follows:]

PREPARED STATEMENT OF GERALD E. GIPP, DEPUTY COMMISSIONER, OFFICE OF INDIAN EDUCATION

Mr. Chairman, I am pleased to be here today to discuss the eligibility form used for the Part A entitlement program under the Indian Education Act.

Part A authorizes grants to public school districts. The amount of each grant is determined by a formula that takes into account the number of Indian children enrolled in the school district and the average per pupil expenditure in that school district's state.

In 1979, grants totalling $44 million were made to 1,148 school districts serving almost 338,000 students.

In determining the amount of each grant, the Office of Indian Education relies on an annual count of Indian students provided by each school district. The districts determine their counts based on eligibility forms (known from the Office of Education number as "506 Forms") that are filled out and signed by parents of Indian students.

On that form, which has the definition of Indian at the top, parents or legal guardians are asked to give: (1) their name and address; (2) the child's name; (3) the name of the child's school; and (4) the tribal affiliation of the child, the parents and the grandparents.

Prior to the development of this first 506 form in 1976, there was no consistent method of determining the Indian enrollment among the nation's school districts. Methods ranged from asking students to identify themselves as Indians by raising their hands to counting only quarter-blood members of federally recognized tribes. As a result, some districts had greatly inflated counts, while others were short-changing themselves.

The introduction of the first 506 form was a definite improvement. However, it has become increasingly apparent that abuses are still taking place. Some school

districts are using the 506 form only for new students. Others are instructing parents to claim eligibility even though their children clearly don't meet the definition of Indian. In some cases, school districts have reported dramatic (and unsubstantiated) jumps in their Indian enrollment.

In 1977, the GAO criticized both the definition of Indian and the methods used by the school districts to identify Indian students. It recommended that the Office of Indian Education establish adequate guidelines and procedures for the schools to use in determining and documenting the number of Indian children to be counted. (The GAO also had a recommendation for the Congress—that it provide the Office of Indian Education with a clearer definition of Indian.)

In 1978, the Indian Education Act came up for re-authorization and student eligibility was a major area of concern.

This Committee, in its report accompanying H.R. 15, stated the problem as follows:

At present, the definition of Indian is so broad that the Committee has seen abuse in the counting of children who are eligible to participate under the program and the inability of program people in the Office of Education to effectively monitor the participation in this program or evaluate its results.

To alleviate this problem, the committee recommended that the definition of Indian be tightened "by deleting the provision which qualified a child as Indian because he is a descendent in the second degree of a member of a recognized tribe." The committee pointed out that this deletion would be consistent with the recommendation of the National Advisory Council on Indian Education.

The full House and subsequently the conference committee declined to change the definition and instead mandated that the Assistant Secretary for Education conduct a study of the definition of Indian.

On the subject of student eligibility, the Congress amended the Indian Education Act as follows:

On the form establishing a child's eligibility for entitlement under Part A of this Act, the Commissioner shall request at least the following information * * *:

1. The name of the tribe, band, or other organized group of Indians with which the applicant claims membership, along with the enrollment number establishing membership (where applicable), and the name and address of the organization which has updated and accurate membership data for such tribe, band or other organized group of Indians; [or, if the child is not a member, the same information about a parent or grandparent through whom the child claims eligibility.]

2. Whether the tribe, band, or other organized group of Indians * * * [is] federally recognized;

3. The name and address of the parent or legal guardian;

4. The signature of the parent or legal guardian verifying the accuracy of the information supplied; and

5. Any other information which the Secretary deems necessary to provide an accurate program profile.

The new statute further states that "any falsification of information provided on the student eligibility form * * * is punishable by making that individual ineligible for receiving any future entitlement * * *."

Another amendment requires the Office of Indian Education to audit, on an annual basis, a sample of not less than a third of the Part A projects. In addition to ascertaining whether or not the educational programs offered are of substantial quality and are meeting the needs of the students, the audit, according to the conference committee, "is intended to verify that the students served are bona fide recipients * * *."

Other concerns have been voiced in the field. In a February, 1979, meeting of representatives from the states of California, Oklahoma, and Alaska, the following points were made in relation to the draft 506 form:

The definition of Indian is not consistently interpreted across the Nation. Some states are still using self-identification. More detailed forms and stricter interpretations may result in loss of services to some ineligible students now being served.

The original intent of Title IV was to serve people who, as Indians, suffered discrimination and consequent educational disadvantages. Now Title IV is often accused of serving people who are remotely Indian.

More effective monitoring is needed to eliminate services to ineligibles. In some LEAs, a phase-out period may be needed.

At another meeting with representatives of Indian organizations, the following point was made:

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Participation of ineligible children means that ineligible parents can gain control of Parent Advisory Committees and design programs that do not serve Indians. In some such cases, the "real" Indians gave up and left the program.

After passage of the Education Amendments of 1978, the Office of Indian Education began redesigning the 506 form in order to incorporate the requests for information mandated by the amended statute.

The forms will serve two purposes: (1) to establish the eligibility of Indian children to be counted by public school districts for the Part A entitlement grants; and (2) a one-time purpose of supplying information to the Assistant Secretary's office for use in the study of the definition of Indian.

The form has been designed so that names and addresses will be removed before the forms are sent to the Assistant Secretary's office.

The new forms have been mailed to the school districts together with letters of instruction to superintendents and parents. The original intent was that the forms would be required for the upcoming 1980 grant cycle. However, a number of school districts and parent committees have objected, saying that more time is needed since so much more detail is required and since many parents are going to object to filling out yet another new form.

Therefore, we have postponed implementation until the 1981 cycle to allow school districts until January 1981—more than a year—to get the forms completed.

It is important to note that once a parent has filled out an eligibility form for a child, he need not do it again, so long as the child remains in the same school district. In addition, since many Indian families are mobile, we have suggested that the forms be made part of the students' permanent records so that they will follow them to any new school district.

In developing the new 506 Form, we have consulted with the following groups:

The Office of the Assistant Secretary for Education (for coordination with the definition study.)

The National Advisory Council on Indian Education, which, while recommending some stylistic changes, agreed with the items required for proof of eligibility.

Indian leaders from the states of Oklahoma, California, and Alaska.

Representatives from several Indian organizations.

The Committee on Evaluation and Information Systems (CEIS) of the Council of Chief State School Officers.

The National Center for Educational Statistics.

The Federal Education Data Acquisition Council (FEDAC), which issued approval in August, 1979.

The Departmental Fair Information Practices staff which determined that Part A parent committees can have access to the information on the forms if permission is granted by the individual parents.

I feel that it is important for me to make a few final points.

First—The new 506 Form was developed by the Office of Indian Education as a direct response to the mandates of the Congress through Public Law 95-561.

Second—Regardless of these mandates, it is incumbent on the administrators of the Office of Indian Education to guard against abuses and to fulfill the original intent of the Indian Education Act—that is, to help meet the special educational needs of Indian children. Because of the growing concerns from the Indian communities, our Advisory Council, members of the Congress, the GAO, and our own staff, the need for tightening the procedures for monitoring Part A projects has become painfully apparent. The Office of Indian Education, therefore, even in the absence of these mandates would have instituted similar procedures. To do so, we believe, is not only within our administrative authority, but is also demanded by our obligation to preserve the integrity of our program.

Finally—I would like especially to stress that in no way has our intent been to eliminate any eligible students from being served by the Indian Education Act. The definition, after all, is unchanged, and the new 506 Form does nothing to alter it. Rather the form removes from the school districts and the parents the burden of deciding eligibility based on their own interpretation of what many have called an unclear definition.

As a Federal administrator, and as an Indian, I have both a legal and a moral obligation to see that all eligible Indians are served. If this means reducing the number of dollars that are siphoned off by persons who do not meet the definition of Indian in our law, I will not have betrayed that obligation.

Thank you very much for asking us here today. I will be happy to answer any questions you may have.

Mr. KILDEE. Thank you very much, Dr. Gipp. Does anyone else wish to make any comments at this time?

Dr. GIPP. No, sir.

Mr. KILDEE. We have a few questions.

First of all, these are informational hearings. They are not adversary, although they may be informationally advocative; but we are trying to determine how to best serve those Indians who are served under this program, and that is our purpose.

Now, let me ask you this question: The abuses which you say you are trying to contain, are they abuses perpetrated by parents or school administrators?

Dr. GIPP. It probably crosses all lines. Perhaps the information that is available regarding the definition is unclear to parents in many cases, and they are then urged to sign the form, to participate and sign the kids up.

I think it also happens directly with school district people in that case. The difficulty that we have with all of this is the administration of the form across the country.

There have been many exceptions to the use of the form. For example, those students who are eligible under the Johnson-O'Malley program, with the Bureau of Indian Affairs, have been excepted in many cases. No 506 forms have been required for those children.

In some cases school districts may have devised their own form. So essentially the application of the form throughout the country has been inconsistent, has not been administered the way it should.

A second problem is the lack of information available on the original form. And all of that, leads to confusion resulting in the situation that we have today.

Mr. KILDEE. I wonder if the parents might be somewhat intimidated by such a form, particularly when on the form you have the statement, "I understand that falsification of information on this form is subject to penalty under law."

I wonder if that is somewhat intimidating, since we in the Congress have wrestled with what we mean by Indian for various programs. Since that has been not resolved here in the Congress, I wonder if a parent might feel somewhat intimidated when they feel that they are Indian, but they are not sure they are Indian under this 506 form. Then they see this statement, "I understand that falsification on this form is subject to penalty under law." I wonder if we might be excluding some people who might be eligible by law for this program.

Dr. GIPP. I think that may be a possibility. We do try to clarify in the letter to the parents what the penalty is, as stated in our law. We feel we need to state that clearly, and we do that in the instructions to the parents.

This is something that I was very concerned about. I listened very carefully to our National Advisory Council regarding that statement. We did see that it may cause anxiety on the part of Indian people. Nevertheless, if they feel strongly that their child should be counted, then I think they should be willing to look at that statement very carefully and be willing to sign that form.

Mr. KILDEE. Counsel, Mr. Lovesee.

Mr. LOVESEE. Two questions, Dr. Gipp:

No. 1, the falsification referred to, is that intentional, or does that include information that is incorrect, even through no fault of the individual filling out the form?

Dr. GIPP. No, I think we are talking about intentional, if that can be determined. We certainly are not looking to penalize anyone if there is erroneous information placed in the form by mistake.

Mr. LOVESEE. And is that made plain in the letter?

Dr. GIPP. It may not be. Perhaps we do need to clarify that, and that is obviously something we would be willing to look at.

Mr. LOVESEE. Second of all, is the requirement that this penalty statement be on the form a policy decision or recommendation on the part of the Office of Indian Education or a recommendation made by counsel during the review process by either the Office of Education or the Department?

Dr. GIPP. By counsel, you mean my general counsel? No, that was a policy decision on our part after consulting with our National Advisory Council.

Mr. LOVESEE. Thank you, Mr. Chairman.

Mr. KILDEE. I would think in following through on Mr. Lovesee's statements, that that might be a very important part of a letter of clarification, to let them know that this means intentional falsification. I have talked to people in my own State, not necessarily my own district—there was a meeting in Pontiac, Mich., concerning this, and they have some of the fears mentioned by myself and Mr. Lovesee.

Dr. GIPP. Mr. Chairman, may I further clarify that? I think the statement, of course, is under "Program Monitoring" in the amendments, and the statement is: "Any falsification of information provided on the student eligibility form for funds under part A of such act is punishable by making that individual ineligible for receiving any further entitlement under the act."

That seems to me to be a very minimal penalty for falsification of information, and I am not sure how much that would really deter people from participating in a program. All it does is simply say, "in the future you will not be eligible," and I am not sure that will weigh heavily on parents if they read the instructions.

Mr. KILDEE. It would seem that if a parent signed this in good faith, even though later on it may be determined that eligibility did not exist, by whomever or for what reason, there should be some type of a statement or at least policy that they would be held harmless.

I think we are really trying to get at a deliberate attempt to deceive, and if a parent in good faith were to sign that, I think there should be some type of policy of hold-harmless for the parent and the letter should make that clear to the parent.

Dr. GIPP. I think we can clarify that in the future memo to parents and school districts.

Dr. TIPPECONNIC. Mr. Chairman, if I might add, we did send out two letters along with the 506 form—one to the parents and one to the superintendents—and in both of those letters we mention the falsification section at the bottom of the form. In the letter to the parents we indicate, "Please note that according to law if you falsify any information on the form, your child will not be counted by the district for the part A program at any time in the future."

Mr. KILDEE. Since this is not an adversary-type hearing, and even though we have separation of powers under the Constitution between the executive and legislative branch of the Government, it would be helpful, I think, if we could see perhaps another letter that goes out and see what input we might have and what points we might think could be clarified in that.

I do think we want to serve the same people and all are operating in good faith in that area, so I would appreciate it if myself and the committee and the staff might get together on a followup letter of clarification.

Mr. Erdahl?

Mr. ERDAHL. Thank you very much, Mr. Chairman.

Dr. Gipp, I have a copy of the present form 506. What were the main differences in the revised form? Maybe we have another copy in our committee file some place, but what are the main differences? Is it the definition portion?

Dr. GIPP. No. The original form asked for a very minimal explanation. It simply asked for the name of the child, the name of the parents, or legal guardians, the school that student attended and the tribal affiliation. And that was essentially it.

Beyond that, it doesn't ask anything about where that child comes from, if he is a federally recognized child, or if he is with a tribe that is State recognized. It does not ask for any evidence or documentation to show that the child is affiliated with a particular tribe. That is essentially the major difference.

Mr. ERDAHL. That brings up another question I have on the testimony presented this morning. Why is it essential that an Indian be recognized as a member of a particular tribe or group? Or did I misinterpret that? Isn't that a requirement?

Dr. GIPP. They must be a member of a tribe, band, or an organized group of Indians in order to meet our definition to be eligible for services.

Mr. ERDAHL. I guess the question I have is why is that a requirement? It seems like an individual could be not a member of a group or tribe and still be an Indian.

Dr. GIPP. Let me clarify it one step further. They can be a descendant either in the first or second degree, which means that if a grandparent is a member of a tribe, that makes that child eligible for services under the Indian Education Act. So the child, himself or herself, does not necessarily have to be a member of a tribe, band, or organized group, but if the grandparent is, based on a second degree relationship, the child is eligible.

So when we ask on the new form, if they claim eligibility through the grandparents, and the child is not a member of the tribe, then we ask for the information on the grandparents, not on the child. We ask that they show that tribal affiliation.

Mr. ERDAHL. Staff points out evidently that tribal connection is a requirement as part of Public Law 95-561. I think of a situation in a family where a cousin was adopted as a small child, an Indian boy, and I don't know if they know if his parents or grandparents were members of a tribe or not, but you don't think that is overrestrictive to have this tribal connection as far as the definition?

Dr. GIPP. We enforce the definition as it stands in the law. We will try to follow up on the eligibility as it is stated in law, and I think that is what we are trying to do.

No, I don't think it is overly restrictive. I think the original intent was to try to include as many children as possible in this country who may not be receiving services through the regular programs, and to try to recognize those children in different situations, such as urban or nonreservation situations.

I think it is carrying it as far as one can probably carry it. And it is a matter of trying to enforce that definition.

Mr. ERDAHL. Thank you. I am sure you share the concern I know Mr. Kildee has, because he is recognized as one of the leaders in Congress, not only in education, but particularly in the education of Indian children, that every one of these individuals get the best possible opportunities in education.

Thank you, Mr. Chairman.

Mr. KILDEE. Thank you, Mr. Erdahl.

Dr. Gipp, could you explain the requirement for an enrollment number. How strict is this requirement? If a tribe has rolls, but an individual does not have an enrollment number for the person they are claiming through, will they be eligible? What if they have been unable to obtain this number?

Have you taken steps to provide LEA or parents' committees with lists of tribes, whether they have rolls, membership lists and addresses? In other words, have you assisted them in ferreting out this information in any way?

Dr. GIPP. That is something that we talked about very carefully over the past few months. It is our hope that we can put in the hands of school districts information that will be useful to them to determine their particular situation, and the children they are dealing with.

Since we have been reviewing this and taking comments over the past few months, we have seen that there is perhaps a need to clarify just how an enrollment number fits into this.

We are requiring that an enrollment number be provided at some point in time. However, I am hopeful that we can allow enough time for that process to take place, and we will be allowing well over a year for that enrollment number to be provided.

I think there is a need also to try to assist school districts in obtaining useful information to determine this, as to where they go and how they get this information.

Mr. KILDEE. You see, I think that is what we mean by inclusive rather than exclusive. We certainly know that this program exists for Indians, and that is the congressional intent and your intent; so we don't want it broadened out to those school districts which will be claiming someone who clearly is not Indian, just to obtain the dollars for the program.

So when I say inclusive rather than exclusive, we don't want to bring in people who are not really not eligible. But I want to make sure those who are eligible are perhaps assisted in determining their eligibility.

That is really my point when I use the term inclusive and exclusive, because certainly this program is not designed for myself or my children, because we are of European descent.

I think that is extremely important; so whatever you can do, in not having them feeling somewhat intimidated by the form, that is good.

But positively we should try to assist them in determining their eligibility. I think that would be very important and perhaps a followup letter containing that would be helpful.

Mr. Erdahl?

Mr. ERDAHL. Mr. Chairman, if I could, I think all of us on the committee and subcommittee received a letter from Maurice Latimer, who is the chairperson of the Flint Indian Parent Committee, in Flint, Mich., and he touches on several concerns that they have, and I was wondering, Dr. Gipp, have you seen that letter?

I would like to ask, Mr. Chairman, if there is no objection, that this letter be inserted in our committee record so we have reference to it.

Mr. KILDEE. Without objection, it will be made part of the record.

[The letter referred to above follows:]

FLINT COMMUNITY SCHOOLS,
FLINT INDIAN PARENT COMMITTEE,
Flint, Mich., October 11, 1979.

Hon. ARLAND ERDAHL,
Rayburn House Office Building,
Washington, D.C.

DEAR MR. ERDAHL: As Chairperson of the Flint Indian Parent Committee, Title IV, Part A Program, we are very dissatisfied with the new form dated August, 1979, OE Form 506. We are requesting assistance with changing or clarifying the form. Our concerns are as follows:

Eligibility 1. Why was the eligibility changed from the old form?

Eligibility 2. Parents are not required to submit the form. However, their children can not be counted for enrollment without the form. To many parents the information requested is personal and do not want this information available for public use.

Item B: 3. We need definitions and a listing of tribes under each of the following areas: federally recognized, not federally recognized, terminated, state recognized and a listing of each state's recognized tribes. We need to know what constitutes other organized groups.

Item C: 4. We need definitions of membership number, enrollment number, and allotment number. What is an example of other?

Item D: 5. Clarify who is eligible and who is not. Would an explanation without the previous information permit one to be eligible?

Part III: 6. Why is it optional for the form to be released to the Parent Committee? The Parent Committee needs the use of the form. Who is responsible for determining eligibility if the Parent Committee can not see the form?

It appears that the new eligibility requirements is an attempt to eliminate Title IV services to off reservation, urban Indian children. The information which would be requested on the proposed O.E. 506 from (items B, C, and D) would be unobtainable by approximately 70 percent of the students enrolled in the Flint School District. Some of the reasons for this are as follows:

1. Many of the student's families have lived in the Flint area for two generations, consequently the parents have lost contact with their tribe and/or family living on the reservation.

2. Many families are from non-federally recognized tribes under the Department of Interior's Bureau of Indian Affairs. However, their families have been known as members of their tribe in the community in which they live or have lived.

3. Some students were adopted and the adoptive agency only told parents that their son/daughter was Indian.

4. Many students come from mixed marriages such as White/Indian, Black/Indian, Mexican American/Indian or Oriental/Indian and until becoming involved in the Indian Education Program their families have identified primarily with their non-Indian background.

5. Many student's grandparents are deceased and the parents have no way of obtaining specific information. Most were only told which tribe the grandparent was a member of.

6. Many students and their families have tried to obtain tribal membership and were unable to because the tribal government will only grant tribal membership or tribal certification to persons living on the reservation.

7. Many tribal rolls have been closed since the early 1900's. Consequently, the student's grandparents are not on the rolls.

8. Because of racial discrimination and prejudices, many student's parents denied their American Indian ancestry, and living in a mobile society have lost contact with their tribes. Consequently, unless their grandparents are living, specific information other than tribe is unavailable.

Your prompt reply in writing is appreciated.

Sincerely,

MAURICE C. LATIMER,
Chairperson, Flint Indian Parent Committee.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

FORM APPROVED
OMB NO. 51-R1303

PART A, TITLE IV, PUBLIC LAW 92-318

INDIAN STUDENT ENROLLMENT CERTIFICATION – INDIVIDUAL

For the purposes of applying for a grant under Title IV, Part A of the Indian Education Act of 1972, it is necessary to identify the number of Indian children enrolled in the School District. Completion of this form is required for student eligibility.

Any child meeting the following definition from Title IV, Part A of the Indian Education Act of 1972 *(Public Law 92-318)* is eligible to be served by this program:

Individuals of Indian descent are defined as follows: *(a)* a person who is a member of a tribe, band or other organized group of Indians, including those tribes, bands or groups terminated since 1940 and those recognized now or in the future by the State in which they reside; or *(b)* a person who has a parent(s) or grandparent(s) who is such a member(s) of a tribe; or, *(c)* a person who is considered by the Secretary of the Interior to be of Indian descent for any purpose; or, *(d)* is an Eskimo or Aleut or other Alaskan Native.

As the MINIMUM requirement for eligibility, the student must have at least one *(1)* grandparent who is a tribal member as defined above.

Please complete and return to your child's *(homeroom)* teacher.

NAME OF PARENT OR LEGAL GUARDIAN	STREET ADDRESS CITY AND STATE / ZIP CODE
NAME OF PUBLIC SCHOOL STUDENT ATTENDS	NAME OF STUDENT GRADE / TRIBAL AFFILIATION
PARENT(S) TRIBAL AFFILIATION(S)	GRANDPARENT(S) TRIBAL AFFILIATION(S)
THIS SIGNATURE CERTIFIES that the information given above is accurate and true and that the tribal affiliation is in accord with the definition given. This form may be released to, and examined by, the Indian Parent Committee.	SIGNATURE OF PARENT OR LEGAL GUARDIAN *(Signature of STUDENT, if age 18 or older)* DATE SIGNED

LEA GUIDELINES FOR INDIAN STUDENT ENROLLMENT CERTIFICATION

1. No child will be eligible for services unless this form is provided containing a signature of the legal parent or guardian or of the student, if age 18. The tribal affiliation must also be provided.

2. The accumulated forms will be turned over to the Parent Committee.

3. The Parent Committee will review all individual student forms gathered by the LEA. The signature by the parent or legal guardian or the student himself/herself, if age 18, shall be sufficient evidence to verify Indian student eligibility.

Telephone Number _____

OE FORM 506, 9/70

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

INDIAN STUDENT CERTIFICATION

(Part A, Indian Education Act)

FORM APPROVED
FEDAC NO. R 43
APPROVAL EXPIRES 6/80

In order to apply for an entitlement grant under Part A of the Indian Education Act, your school district must determine the number of Indian children enrolled in its schools.

Any child who meets the following definition from the Indian Education Act may be counted for this purpose.

"Indian" means..."any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940, and those recognized by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native...".

You are not required to submit this form. However, if you choose not to submit it, your child cannot be counted for entitlement funding under Part A of the Indian Education Act.

NAME OF ELIGIBLE CHILD

ADDRESS *(Include number, street, city, State and ZIP code)*

PART I – MEMBERSHIP INFORMATION

WHO IS A MEMBER OF A TRIBE, BAND, OR OTHER ORGANIZED GROUP OF INDIANS? CHECK ONE OF THE BOXES BELOW AND ANSWER THE QUESTIONS FOR THAT PERSON:

1. ☐ CHILD HIMSELF/HERSELF 2. ☐ NATURAL PARENT *(ancestor, 1st degree)* 3. ☐ NATURAL GRANDPARENT *(ancestor, 2nd degree)*

IF YOU CHECK BOX 2 OR 3, ENTER THE NAME OF THE PARENT OR GRANDPARENT

A. WHAT IS THE NAME OF THE TRIBE, BAND, OR OTHER ORGANIZED GROUP OF INDIANS?

B. COMPLETE COLUMN 1 OR COLUMN 2. THE TRIBE, BAND, OR OTHER ORGANIZED GROUP IS: *(Check all the boxes that apply in the column you select)*

COLUMN 1
- ☐ FEDERALLY RECOGNIZED
- ☐ ESKIMO, ALEUT, OR OTHER ALASKAN NATIVE

COLUMN 2
- ☐ NOT FEDERALLY RECOGNIZED
- ☐ TERMINATED
- ☐ STATE RECOGNIZED, BY THE STATE OF _____
- ☐ OTHER ORGANIZED GROUP

C. WHAT IS THE INDIVIDUAL'S MEMBERSHIP NUMBER? *(Where applicable)* _____
CHECK ONE. THIS IS AN ☐ ENROLLMENT NUMBER ☐ ALLOTMENT NUMBER ☐ OTHER *(Explain)*

D.1. IS THERE AN ORGANIZATION WHICH MAINTAINS MEMBERSHIP DATA FOR THE TRIBE, BAND, OR OTHER ORGANIZED GROUP? ☐ YES ☐ NO

2. IF "YES", GIVE THE NAME AND ADDRESS OF THE ORGANIZATION

NAME OF THE ORGANIZATION

ADDRESS

3. IF "NO", EXPLAIN HOW THE PERSON INDICATED MEETS THE DEFINITION OF INDIAN GIVEN AT THE TOP OF THIS FORM.

PART II – SCHOOL INFORMATION

(Print the name and address of the public school the child now attends and enter the child's grade level below)

NAME OF SCHOOL

ADDRESS *(City and State ONLY)*

GRADE

PART III – PARENT INFORMATION

I UNDERSTAND that falsification of information on this form is subject to penalty under law.

SIGNATURE OF PARENT

ADDRESS

DATE

I CONSENT to release this form to the Part A Parent Committee for review. *(Optional)*

SIGNATURE OF PARENT

OE FORM 538, 8-79

Dr. GIPP. No; I have not seen the letter.

Mr. ERDAHL. I will be glad to supply you with a copy, because Mr. Latimer does touch on several specific concerns, some of which the chairman and I have mentioned today, but I will see you get a copy of the letter.

Dr. GIPP. I would appreciate that.

Mr. KILDEE. Mr. Lovesee?

Mr. LOVESEE. For point of clarification, in order to create a record which hopefully will be of service in the field, I would like to ask questions with respect to the enrollment section and some concerns voiced by people in New York, Michigan, North Carolina, and some other States.

Am I correct that if the part on the form which is column 1, under subsection B, saying federally recognized, is checked, and if the tribe involved has a roll or allotment number, that the individual will then have to supply that membership number?

Dr. GIPP. That is correct.

Mr. LOVESEE. The statement was made that they would have to supply that at some point in time. Am I correct in assuming that would be when it is finally turned in, in either January or February of 1981?

Dr. GIPP. That is correct.

Mr. LOVESEE. Why was the requirement of an enrollment number chosen?

Dr. GIPP. The enrollment number happens to be one direct piece of evidence that shows that a person is eligible for services under title IV. It follows along with a data collection effort that has been required of the Assistant Secretary for the definition study.

Also, it is a very useful piece of information for us when we carry out the mandated audit to try to decipher just who we are serving—are we serving bonafide recipients?—and the best way to do that is with some direct evidence.

Mr. LOVESEE. I think some concerns have been brought about from the standpoint of the intent of title IV, since in the original legislation the term enrolled member was specifically stricken from the legislation and, in turn, the term member was substituted.

I am wondering if you feel now requiring an enrollment number violates the intent shown by that original move on the part of Congress?

Dr. GIPP. No; I don't, because I think there are at least four ways under which an individual can qualify, and one of the ways is by being an enrolled member of a federally recognized tribe. So I don't think that violates that intent at all.

Mr. LOVESEE. Isn't the definition a member of a recognized tribe as opposed to an enrolled member? I believe the term enrolled was stricken from the original language during the time of congressional consideration.

Dr. GIPP. Well, I think it goes back to the basic premise that whatever that tribe may determine as their membership, is something that we would find acceptable.

The use of enrollment numbers is simply one method whereby people can show evidence that they are tribal members.

Mr. LOVESEE. Dr. Gipp, is there any place on the form where an individual who may not have an enrolled number, such as an

individual whose grandparents left early in this particular century, or an individual adopted, removed for various reasons, does not have that, or has made an attempt to obtain that number and perhaps been unsuccessful, is there a section on the form where, in a narrative form, they may explain their ability to qualify under the definition as presented at the top of the form?

Dr. GIPP. You have asked several things. First of all, we would require only the membership number or enrollment number, or whatever you want to call it. There may be several types of numbers. We probably could have tried to list all of those however, because of the size of the form, and so forth, we could not address all concerns. But the first point is that we would only ask for that membership number where it applies. Obviously, if their tribe does not maintain membership numbers, we would not require that.

Second, if they cannot provide that, it would be my hope that we would be flexible enough to allow them to explain that, and show that they have made a good-faith effort either to obtain that number, if it is available, or to explain on what basis they meet the definition of "Indian."

Mr. LOVESEE. To me, I think that is the operative question. You say you would hope that you would be flexible enough. Will the Office of Indian Education be flexible enough to allow a narrative explanation as to how qualification is there, in the absence of a membership number, and, if so, on what part of the form will that narrative be allowed?

Dr. GIPP. To amend my previous remark I do see a need for clarification, and I think this is one area in which we can do that. Further information can come in a couple of ways. One is under D-3, which does allow a narrative explanation. Should they wish to attach any evidence that they have attempted to get their enrollment number from their tribe and were not able to do so, it seems to me that it is reasonable to allow that letter to be a part of their record. Such documentation could be filed with the student eligibility form.

Mr. LOVESEE. In a situation such as Los Angeles, where you have several thousand children and several hundred tribes represented, at least over 100, according to testimony given earlier to this subcommittee, and a very small parent committee, which is not on a pay basis, do you feel that all parents will know about such things as enrollment numbers? Do you feel they will be able to be helped by a small group, or do you feel in many instances individuals will react negatively and simply not qualify for the program?

Dr. GIPP. Again, you have asked a series of questions, and I am not sure I can answer or remember all the questions you asked.

Obviously, we are dealing with a very complex situation. I happen to believe that if someone claims to be a member of a federally recognized tribe, that they surely should know where to go to get that number, especially parents. Even if they are not members of that tribe, if their parents (or the grandparents of the child that is being claimed) were members of a federally recognized tribe, it seems very reasonable to me that they would have some knowledge of where that tribe is located, what the name of that tribe is, and how they could possibly begin to get that information. I don't think that is unreasonable at all.

Mr. LOVESEE. Do you feel that urban organizations and perhaps non-recognized organizations were consulted during the formulation of this form?

Dr. GIPP. We have consulted with so many groups as indicated in my opening statement. My main counsel has come from the National Advisory Council, which does have some representation in that area. As you know, the education amendments became effective 1 year ago. We have struggled with trying to put this together over the past year, and we pushed very hard to get it completed. I simply had to make some decisions based on the information I had available.

Mr. LOVESEE. Was there consultation with either the National Tribal Chairmen's Association or the National Congress of American Indians?

Dr. GIPP. There was with the National Tribal Chairmen's Association; yes. I did share information with their education committee.

Mr. LOVESEE. Was there consultation with any of the congressional committees involved?

Dr. GIPP. Well, I think you and I have had several discussions over the past months. Beyond that, I have not conferred with other committees; no.

Mr. LOVESEE. If I may, I have a question for Mr. Riddle, and it regards the Administrative Procedures Act with respect to forms, regulations, et cetera.

I believe that a statement was made by Dr. Gipp during the hearings in July that the general policy has tended toward minimal required information as a requirement for eligibility. This would then represent a policy change from the standpoint of eligibility information.

I am wondering with respect especially to the section 553 of the Administrative Procedures Act, from the standpoint of publication, public comments, review process period, do you feel that this form is a substantial policy change such as would require some form of public consultation?

Mr. RIDDLE. Mr. Lovesee, I have not, to be quite honest, given that question a great deal of consideration. I know when we were first discussing the question of whether or not the items that were to be included on this form are in fact really requests for information or whether they are required, we discussed that question at great length.

We have, in fact, chatted about, although not discussed at great length, the question of whether or not this information ought to be included in the Federal Register.

I think you can make an argument either way on that issue. I do not view this as a substantial policy change, but substantially a procedural change insofar as we are now requiring or proposing to require, beginning with fiscal year 1981, more information to be included on the form than has previously been the case. I do not see that as a substantial policy change.

Mr. LOVESEE. As a substantial procedural change, does it come under the same restrictions requiring publication and public notice?

Mr. RIDDLE. I would prefer to do research on that before I give an answer.

Mr. LOVESEE. Would you be able to submit that for the record, please?

Mr. RIDDLE. Certainly.

[The information referred to follows:]

On the basis of a review of applicable law, including section 553 of the Administrative Procedures Act, 5 U.S.C. 553, and section 431 of the General Education Provisions Act, 20 U.S.C. 1232, we take the position that the U.S. Office of Education is not required to publish the revised Form 506 or the instructions for completing it in the Federal Register. We further believe this is a legally supportable position.

Mr. LOVESEE. Dr. Gipp, what steps have been taken, if any, to check on either schools or particular areas which show a decrease in the title IV population under the use of this form, to ascertain whether the decrease is because the children were never really eligible in the first place or whether it has been problems with the form and its implementation? Have there been any steps taken to set up a mechanism to check on that?

Dr. GIPP. Are you talking for the future or past use of the form?

Mr. LOVESEE. For the future.

Mr. KILDEE. It would be interesting to see, for example, if there were a diminution in numbers whether that diminution is caused by accurate factual information determining eligibility, or whether perhaps the form did have some intimidating effect upon people where they didn't sign the form. It would be interesting if that could be followed through.

Dr. GIPP. I think we have a mechanism available to us, and that is the required audit of eligibility determinations. If we have the staff to monitor one-third of our grantees each year, that is something we could look at carefully as we go directly into the program sites.

Mr. KILDEE. I think auditing is really not just auditing for financial reasons. There is performance auditing, too; right?

Dr. GIPP. Yes, that is correct.

Mr. KILDEE. So if in your auditing you would see perhaps a large number, you would want to look into that to see whether there is the admission of students who are ineligible. If you saw a diminution of numbers, it should concern you that you are missing people who are truly eligible. It may be something we have done has caused that. I think both approaches are necessary.

Dr. GIPP. Certainly. Mr. Chairman, another thing to look at will be the definition study itself. That is one of the reasons that we are placing emphasis on the collection of this data. If we were simply saying, "do this at your leisure," I am not sure of the kind of information that would come back for that study. I think it is critical for the overall operation of this program, to get as much useful information into that study as we can. If the persons conducting the study get only *x* number of forms back and some people refuse to be part of the study, then it seems to me that they have to make an effort to determine why.

Mr. LOVESEE. You mentioned that the enrollment number is one method by which tribes indicate membership. I would like to return to that because that has been the bulk of the mail, and we have some of it down here. There seems to be concern over ability to provide that.

I assume the place for the narrative explanation, at least that which is included on the form, is subsection D–3. Am I correct?

Dr. GIPP. That is right.

Mr. LOVESEE. The small three does not simply refer back to the organization which maintains membership data, but it is more expanded from the standpoint of a narrative explanation of qualification? The sufficiency of that narrative is to be determined initially by the LEA and the parent committee, assuming they work together on it, but definitely the LEA?

Dr. GIPP. That is correct, yes. I do need to qualify, that on the form, itself, it is not exactly as you interpreted. The instruction that we have given is that if an organization does not maintain membership rolls, then D–3 is the section under which the narrative description can be provided regarding eligibility.

We have not clarified to federally recognized tribes or individuals that if they cannot get that number, or if it is not available to them that D–3 is a space where they could explain that situation. That is something we could clarify in a followup letter.

So it is not exactly as you explained it. The narrative section, as we have originally instructed, is limited to those individuals who cannot provide the name or address of the organization that does maintain their membership information. If they are in that situation, then we ask them to explain under D–3: "How do you qualify? Give us justification. How do you meet that definition?"

Mr. LOVESEE. Then for a point of clarification, I think I understand what you are saying is that if you have a natural grandparent who was a member of a federally recognized tribe, for sake of discussion, a Navajo individual, a member of the tribe, and you know that, and you put that down, you have no number attached, but rolls are maintained or allotment numbers are given, but you don't know the address of the organization that has that, you don't know the Window Rock, or the nation's address, this subsection is to explain why you do not have the address or know the tribal organization who maintains the rolls.

It would not be for an explanation such as this. You know that the grandparent was a Navajo individual, but you do not have the enrollment number, nor have made an attempt to get it, but have a narrative explanation that they came to such and such a place at such and such a date; in other words, a geneology, if you will. It is not for that type of explanation?

Dr. GIPP. Well, I think it could be for both of those cases. The point I am trying to make is that as the directions now read on the form, itself, and as the directions that have been laid out to both superintendents and parents, if they answered yes and indicate the name of the organization and give us a number, there is no problem.

Now, if they answer yes, they are a member of a federally recognized tribe but do not provide us with an enrollment number, if one is available, then we need to clarify to them that they can explain the status of obtaining the number under D–3 on the form.

So we need to do that. There is a need for that to happen, should they not have that number available immediately. They would be allowed to explain that particular situation or attach any documentation that might be available to them.

Mr. LOVESEE. So, in other words, there would be a chance or situation in which an individual would claim through a recognized group, and not have an enrollment number and still be eligible and who would determine the sufficiency of that? Would it be the LEA?

Dr. GIPP. Yes, it has to be. The LEA has to determine, if it has enough information on which to say:

A good-faith effort is being made and we will count the child on an estimated basis until we receive that evidence.

Dr. TIPPECONNIC. Mr. Lovesee, a very strict reading of the form does not allow for the explanation about the membership number in D-3. However, we are going to allow an explanation be given, either here or by some documentation that is attached to this form. Perhaps an individual knows that they do have a number; we want some evidence they have made an attempt to get that number.

Mr. LOVESEE. What if they do not know if there is a number, such as in certain instances, especially in the Southeast, there is even some question as to Federal recognition, but I guess the operative situation is they must find out if there is an enrollment number and make an attempt to obtain it.

Dr. GIPP. That is correct.

Mr. LOVESEE. Mr. Chairman, if I may, I have a couple more questions.

Mr. KILDEE. Proceed.

Mr. LOVESEE. Would you explain the definition currently being used by the Office of Indian Education for the term "organized group" as found in the definition under the act?

Dr. GIPP. At the present time, that term has not been defined in our regulations.

Mr. LOVESEE. When will the definition be put in the regulations?

Dr. GIPP. The definition of Indian is in the regulation. We simply do not break out that particular terminology and define organized group.

Mr. KILDEE. Do you plan to have a definition for the organized group?

Dr. GIPP. That is a concern we have taken comment on throughout the past months with our regulation development, and with the nine public meetings that were held in the month of August. We did receive comments on that. That is something that has not been finalized, I think we need to consider all comments before we publish final regulations.

Mr. KILDEE. Mr. Lovesee?

Mr. LOVESEE. I know the question was raised in New Orleans and has been raised several other places, whether an organized group of Indians could, in an urban situation, be an organization formed by Indian people. I realize that is a broad situation, but would that be acceptable? In other words, an organization with a board of directors perhaps composed of Indian individuals which then kept a list among themselves?

Dr. GIPP. Composed of many different tribes?

Mr. LOVESEE. Yes.

Dr. GIPP. I can give only a personal opinion at this point in time. In my best judgment I don't think that would be acceptable. I think membership has to be tied directly back to tribes and tribal

affiliation in order to protect the tribal right to determine membership. To simply throw together a conglomeration of people and to treat them as an organized group for the purpose of enlisting membership would be unacceptable.

Dr. TIPPECONNIC. Mr. Lovesee, in our regulation we do define Indian organization, but that is in relationship to our discretionary grant program. Those are groups that are eligible for grants, not to maintain membership. I think what we would have to do is to take this on a case-by-case basis and work with the LEA's in determining who meets this definition of organized group as it relates to indigenous tribal groups that can provide membership data to us.

Mr. LOVESEE. Dr. Gipp, in your opinion, if either the committee's investigation, or your own investigations, do show that the concern on the part of various groups, States, tribes, is warranted, would there be the possibility to withdraw this form from use for establishment of eligibility?

Dr. GIPP. There is that possibility. I think that would be very detrimental to the entire process if you should require such action. First, because it would stop our student count process. Second, it would not address the concerns of abuse that people have brought forward, both to the Congress and to my office. Third, it would stop the entire data collection effort and the definition study, and I believe just don't think that would not be in the best interest of the programs.

Mr. LOVESEE. Would it be possible in a new letter of clarification, assuming one is constructed, to go into an explanation, perhaps, of the narrative ability of the form? That is the wrong term, I know, but, in other words, explaining how a narrative could be put down, because I know that has caused a lot of conversation in the field.

Dr. GIPP. That is a possibility. The thing we do want to avoid is to set out a series of examples whereby people could pick one and then try to claim eligibility. That is the only difficulty that I would have with it. But we can better clarify to both parents and school districts as to how a narrative can be utilized—no question about it.

Dr. TIPPECONNIC. Mr. Lovesee, may I refer to the previous question? You indicate that you have received large numbers of comments concerning the form. I would like to indicate that we also have received comments concerning the form, and they come from basically our different concerns.

One concern, of course, is the area that we have discussed today, where urban Indians and non-recognized groups have expressed some deep concerns about the enrollment number, et cetera.

Second, we have also heard some supportive comments about the 506 form from people who think we are doing the right thing. Third, we have heard a concern that is centered around the data collection effort—not necessarily what is on the form, itself, but the difficulty that an LEA will have when it attempts to collect the data. Just the sheer data collection effort, and how they go about doing that is going to take a great deal of time; and last, we have heard comments from LEA's that center around a coordination issue. Their concern is that they are required to provide this kind of information for a number of Federal programs. Johnson-O'Mal-

ley and Impact Aid for example. They want to know why we can't coordinate with those other programs and come up with one form.

Mr. LOVESEE. Do you feel the concerns regarding this form voiced by the first group you mentioned there, urban and nonrecognized, are valid?

Dr. GIPP. I believe that, as expressed both in this hearing and also the previous one in July, our office is very concerned about those Indian individuals who qualify and may have difficulty showing just how they are tribally connected. We are well aware of that. That is an extremely important and legitimate issue to those people, and we have to listen very carefully, because they obviously are eligible if they can show that tribal affiliation based on the definition.

On the other hand, I strongly believe that if there are abuses occurring, we have to address those abuses in the overall concern for this program. We did anticipate to some extent that people would stand up and raise their voices on this issue—no question about that—so we hope that we can, as I mentioned before, be as flexible as possible to insure that people do have the opportunity to justify just how they meet this definition.

Mr. KILDEE. The committee may wish to submit further questions to you in writing to complete the record, and we do look forward to working with you in disseminating information, clarifying the points and questions raised here today. We certainly would like to see the final form of the memorandum that will go out, because people have written to us now, and we anticipate there will be further communication; so we would really appreciate any input that we could give in a cooperative way to that memorandum.

Dr. GIPP. We would welcome that, Mr. Chairman.

Mr. KILDEE. I really appreciate your coming here today. As I say, we are serving the same people; we are trying to dovetail the executive and legislative as carefully as possible; and we appreciate your full cooperation with this committee.

Dr. GIPP. Thank you.

Mr. KILDEE. Thank you very much.

[Whereupon, at 11:05 a.m., the subcommittee adjourned, to reconvene upon the call of the Chair.]